IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNETONKA

Lisa Coleman,	)
Plaintiff,	)
v.	)
	)
The Paisley Academy,	)
Defendant.	)
_____	)

Case No. 25-cv-12101

MEMORANDUM OPINION

Defendant The Paisley Academy ("the Academy") moves this Court under Federal Rule of Civil Procedure 12(b)(6) for dismissal of plaintiff Lisa Coleman's claims that the Academy discriminated against her in violation of the Americans with Disabilities Act ("ADA"), § 504 of the Rehabilitation Act ("§ 504") of 1973, and the State of Minnetonka Human Rights Act ("MHRA"). The Academy asserts that Coleman's pleading fails to state a claim upon which relief can be granted because she has not plausibly alleged that she is an individual with a disability or that she suffered an adverse employment action during her employment at the Academy. Coleman opposes the motion, asserting that she has stated a plausible claim that her severe kidney stones meet the ADA's definition of "disability" and that she suffered an adverse employment action when the Academy's refused to reasonably accommodate her need for additional medical leave or, in the alternative, when the Academy issued her a Letter of Instruction (LOI) for her disability-related work absence.

The Court notes that although Coleman has alleged that, in addition the ADA, the Academy also violated § 504 and MHRA, both of those statutes explicitly state that they apply the same standards as the ADA[1] and for that reason, the Court for the rest of this opinion will analyze whether Coleman has stated a claim under the ADA.

Because this case comes before the Court on a 12(b)(6) motion to dismiss, the Court must take all well-pleaded allegations as true. *See Kane Enters. v. MacGregor (USA) Inc.*, 322 F.3d 371, 374 (5th Cir. 2003). As a result, the facts outlined below are derived from Coleman's Complaint, and the Court assumes that these allegations are true for the purpose of this motion.

Plaintiff Coleman works as a paraprofessional at the Academy, a private secular high school, where she is assigned to assist with English as a Second Language ("ESL") students. She was hired for the school year 2023-2024, which ran from September 5, 2023, to June 7, 2024. Coleman first developed kidney stones and sought medical attention in late February 2024. She was treated with conservative measures and was able to pass several stones. She again developed several stones in March that similarly passed with conservative treatment. She used four days of sick leave during this time. In mid-April, she began experiencing increasing pain, nausea and vomiting. She was admitted to the hospital over a weekend where her doctors determined that she had some larger stones that were more difficult to pass. She received IV fluids and was discharged in time to turn to work. The intense pain continued, but by using a heating pad and over-the-counter pain medication, Coleman was able to complete her job duties, missing three days of work.

In late May 2024, the situation intensified. Coleman began to experience a fever along with a new bout of nausea and vomiting. Her doctors determined that she had multiple large

[1] *See* 29 U.S.C. § 794(d); Minnetonka Rev. Stat. 12-208(b). Neither party disputes this.

stones in her kidneys that were unlikely to pass. On May 24, 2024, Coleman underwent a procedure called percutaneous nephrolithotomy (PCNL).[2] The procedure was done at an ambulatory surgery center. Her doctor placed a stent in her kidney and restricted her from lifting over ten pounds for two weeks. She was released from the surgery center to return home that day, but she needed to return in a week to have the stent removed. She missed one day of work (a Friday) for the procedure and another day of work (also a Friday) for the stent removal. Over the second weekend she developed a fever for which her doctor prescribed antibiotics and advised her to avoid working until she completed the prescription (two weeks).

Because she was in her first year in the position, Coleman had accrued only limited sick and personal leave.[3] She had exhausted all her available days at the time the doctor advised her not to work for two weeks. At that time, there was one week of school left, meaning she would need to take one week of unpaid leave. The paraprofessional contract allowed "dock days," which are unpaid leave days that can be granted at the discretion of the school principal. The contract also stated that dock days could not be used for leave during the first five days or the last five days of the school calendar. Coleman contacted Principal Sparks and requested waiver of the end-of-term leave limitation as a reasonable accommodation to allow her to use "dock days" to complete her antibiotic treatment and prescribed rest from working. Principal Sparks

[2] PCNL "is a technique used to remove certain stones in the kidney or upper ureter (the tube that drains urine from the kidney to the bladder) that are too large for other forms of stone treatment such as shock wave lithotripsy or ureteroscopy." *Percutaneous Nephrolithotomy*, John Hopkins Medicine,https://www.hopkinsmedicine.org/health/treatment-tests-and-therapies/percutaneous-nephrolithonomy-pcnl. It involves making an incision and then using medical tools to break up and remove the large stone. *Id.*

[3] She had not worked at the Academy long enough to qualify for Family and Medical Leave Act ("FMLA") leave or the state law equivalent.

refused the request, stating that he had never allowed "dock days" to be used during that time.[4] He expressed his belief that kidney stones would not qualify as a disability under the ADA.

Coleman then attempted to return to work that Monday. That morning, she developed nausea and had to go to urgent care. The urgent care doctor strongly advised her to go home and rest. She called the school and informed them that she would not return to work that day due to her health situation. Coleman returned to work the next day against doctor's orders. Although she was still experiencing pain and some nausea, she was able to finish out the rest of the week. Principal Sparks issued Coleman a LOI, informing her that her absence violated the school's end-of-term leave policy, that she was required to comply with all school leave policies, including provision of adequate notice and attendance during the end-of-term week, and that the LOI would be placed in her personnel file.

Paraprofessionals at the Academy are covered by individual rather than union contracts. Coleman's contract indicated she was employed at will and had no assurance of continued employment in subsequent school years. Coleman's contract also set out, in relevant part, policies regarding accumulation of sick and personal leave, other leave policies, and performance review policies. At the Academy, each paraprofessional has a third-year review that results in an employee evaluation score. The evaluation score is based on several metrics and may affect salary decisions, eligibility for transfers to other positions within the school, and order of layoff if employees have the same level of seniority. Failure to comply with school policies is one factor that can be considered in calculating the evaluation score. Misconduct citations for policy

[4] Principal Sparks had granted FMLA leave during this period to a paraprofessional who had just given birth.

violations that are more than two years old may be removed from the employee's record if there were no subsequent violations.

The Academy has notified Coleman that her contract will be renewed for next year but has not confirmed her assignment. Coleman is concerned that her kidney stones may recur and that the Academy may deny future accommodation requests.[5] She is also concerned that the LOI may affect her future employment status and performance evaluation score. Coleman filed a timely discrimination charge with the Equal Employment Opportunity Commission and received her right to sue letter. She then initiated this federal civil proceeding within the 90-day period after receipt of that letter.[6]

Coleman alleges that the Academy violated her rights under the ADA by denying her request for additional leave as a reasonable accommodation of her disability, severe kidney stones, and issuing her a LOI reprimanding her for taking unapproved leave and warning her of the consequences of any additional infractions. The Academy moves for dismissal of her claims, making two arguments: First, Coleman cannot establish her kidney stones were a disability under the ADA because they were too short-term to be "substantially limiting." Second, even if Coleman met the threshold to show a disability, Coleman cannot establish she suffered an adverse employment action based solely on the fact she was denied an accommodation or alternatively based on the Academy having issued her a LOI for her disability-related absence.

This Court agrees with the Academy that because Coleman's kidney stones resolved within a short period of time, she cannot as a matter of law show that they were "substantially limiting" of any major life activity. Even if the Court were to assume that Coleman pleaded a

[5] Coleman's complaint does not allege that she has had a recurrence of her kidney stones since June 2024 but does allege that the type of stones she experienced have the potential to recur.
[6] There are no issues in dispute regarding the procedural background of plaintiff's claim.

plausible ADA disability, the Court concludes that she has not pleaded a plausible adverse employment action. This Court agrees with those courts that have held ADA plaintiffs must plead more than that their employer denied a requested reasonable accommodation. They must show that the employer's actions resulted in "some harm" to the terms and conditions of the plaintiff's employment. Here, the Academy's refusal to waive the end-of-term attendance rule did not cause any change in the terms and conditions of Coleman's employment as she retained her same position and wages. The LOI, at most, has a speculative effect in the future. That is not sufficient even under the relaxed *Muldrow v. St. Louis* standard. Defendant's motion to dismiss is, therefore, **GRANTED**.

DISCUSSION

The Supreme Court has established a plausibility standard to assess whether a complaint survives a motion to dismiss under Fed. R. Civ. P. 12(b)(6). *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) ("To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" (quoting *Bell Atlantic Corp. v. Twombly Id.*, 555 U.S. 544, 570 (2007)). A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. *Id.* In considering a Rule 12(b)(6) motion, a court must accept all factual allegations in the complaint as true and must draw all reasonable inferences in favor of the plaintiff. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). "The plausibility standard is not akin to a probability requirement, but it asks for more than a sheer possibility that a defendant has acted unlawfully." *Iqbal*, 556 U.S. at 678 (internal quotations omitted).

1. Disability

Coleman alleges the Academy violated her rights under the Americans with Disabilities Act ("ADA") when it discriminated against her based on her disability. To establish a prima facie case that the Academy failed to accommodate her as required by the ADA, Coleman must show that she is an individual with a disability as defined by the ADA; she is qualified and able to perform the essential functions of the job with or without reasonable accommodation; and she suffered an adverse employment action because of her disability. *Samper v. Providence St. Vincent Med. Ctr.*, 675 F.3d 1233, 1237 (9th Cir. 2012). The ADA defines disability to "mean[], with respect to an individual — (A) a physical or mental impairment that substantially limits one or more major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment. . . ." 42 U.S.C. § 12101(1).

Coleman alleges her kidney stones were an actual impairment of two of her major bodily functions, her genitourinary and nephrological systems, or were a record of such impairment. [7] *See* 42 U.S.C. § 12102 (2)(B) (setting out the definition of major bodily functions). She alleges her major bodily functions were substantially limited because the kidney stones occurred over more than a three-month period and caused her to undergo surgery, and she subsequently developed an infection that required continued medical supervision. In addition to the text of the ADA, Coleman cites the EEOC's ADA regulations and the Interpretive Guidance (IG) to those regulations. *See* 29 C.F.R. § 1630.2(j)(1) (2025) (defining "substantially limits"); 29 C.F.R. app.

[7] Courts have long held that the standards for finding a plaintiff has a disability under the "record of" prong are the same as finding an "actual disability" in regard to the impairment having to substantially limit one or more major-life activities. *See, e.g., Weber v. Strippit, Inc.*, 186 F.3d 907, 915 (8th Cir. 1999) (reasoning that if jury finds the plaintiff had no actual disability, "it is virtually inconceivable that the jury would have found for [him] on a record of disability theory"). Because neither party disputes this, the Court will therefore focus on whether Coleman has shown she has an actual disability.

§ 1630.2(j)(1) (2025).[8] She specifically notes the IG example of a covered individual us someone whose "back impairment . . . results in a 20-pound lifting restriction that lasts for several months." 29 C.F.R. app. § 1630.2(j)(1)(viii)*; see also id.* app. § 1630.2(j)(1)(ix) (referencing similar point in prior subsection).

Whether the plaintiff has identified an "impairment" and a limitation of a "major life activity" are questions of law. *Carter v. Pathfinder Energy Servs., Inc.*, 662 F.3d 1134, 1142 (10th Cir. 2011). Generally, whether the impairment "substantially limits" the major life activity is a question of fact for the jury. *Id.* However, where the complaint fails to allege anything other than a short-term impairment, courts have found summary dismissal appropriate. *See, e.g.*, *Mastrio v. Eurest Servs., Inc*., No. 3:13-CV-00564 VLB, 2014 WL 840229, at *5 (D. Conn. Mar. 4, 2014) (dismissing plaintiff's ADA disability claim because his kidney stones were too short-lived to substantially limit any of his alleged major life activities).

Courts initially construed the definition of disability narrowly, prompting Congress to amend the Act by passing the Americans with Disabilities Amendments Act (ADAAA) in 2009. ADA Amendments Act of 2008, Pub. L. No. 110–325, 122 Stat. 3553 (2009). Congress rejected two Supreme Court decisions that it stated had made the inquiry too demanding. *Id.* § 2(b)(2)-(5), 122 Stat. 3354 (superseding by statute *Sutton v. United Air Lines, Inc.*, 527 U.S. 471 (1999), and *Toyota Motor Mfg., Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002)). Congress additionally found that the Equal Employment Opportunity Commission ("EEOC") regulations had

[8] The Court notes the Interpretive Guidance found in the Appendix to 29 C.F.R. pt. 1630 went through the same notice and comment process as the text of the regulations and that neither party raises any questions regarding whether the Court should give the guidance the same weight of authority as to the regulations themselves.

themselves set too demanding a standard and directed the agency to revise its regulations to be consistent with the ADAAA. *Id.* § 2(a)(8), 122 Stat. 3354.

The ADAAA's Rules of Construction direct that "[t]he definition of disability in this [Act] shall be construed in favor of broad coverage of individuals under this [Act], to the maximum extent permitted by the terms of this chapter." 42 U.S.C. § 12102 (4)(a). Despite this language calling for a broad definition, Congress retained the requirement that the plaintiff alleging a so-called "actual disability" claim under § 12101(1)(A) or a "record of disability" claim under § 12101(1)(B) show a substantial impairment of one or more major life activities.

The Academy argues that both before and after the ADAAA, courts have correctly found that short-term, temporary impairments do not meet the threshold for being substantially limiting. *See, e.g., Green v. DGG Props. Co*., No. 3:11-CV-01989 VLB, 2013 WL 395484, at *10 (D. Conn. Jan. 31, 2013) ("It appears that even under the ADAAA's broadened definition of disability, short term impairments would still not render a person disabled within the meaning of the statute."). This is true even considering another of the ADAAA's Rules of Construction that an impairment that is intermittent or in remission can be a disability if it is substantially limiting when the impairment is active. *See* 42 U.S.C. § 4(d); *see also Mastrio v. Eurest Servs., Inc.,* No. 3:13-CV-00564 VLB, 2014 WL 840229, at *5 (D. Conn. Mar. 4, 2014) (noting new episodic rules did not apply because plaintiff's complaint failed to "allege that the kidney stones were anything but a singular occurrence").

The Court finds the statute is ambiguous regarding whether short-term impairments can be substantially limiting. Surveying the case decisions, the Academy correctly notes that some courts have held post-ADAAA that impairments lasting six months or less do not meet the "substantially limiting" threshold. *See, e.g., Shaw v. Williams*, No. 16-CV-1065, 2018 WL

3740665, at *8 (N.D. Ill. Aug. 7, 2018) (collecting cases that "found that run-of-the-mill short-term injuries do not qualify as disabilities under the ADA"). But Coleman points to other federal circuit courts that have held short-term impairments can be disabilities under the ADA, in some cases overruling prior decisions to the contrary. *See, e.g., Mueck v. La Grange Acquisitions, L.P.,* 75 F.4th 469, 480 (5th Cir. 2023), as revised (Aug. 4, 2023) (recognizing that prior rule that impairment must be permanent or long-term no longer applied after the ADAAA); *Shields v. Credit One Bank, N.A.*, 32 F.4th 1218, 1224 (9th Cir. 2022); *Summers v. Altarum Inst., Corp.*, 740 F.3d 325, 330-32 (4th Cir. 2014).

Some of the cases Coleman cites merely hold that the impairment does not require long-term effects, without considering whether some impairments might still be too short-term to be substantially limiting. *See Mueck,* 75 F.4th at 480. Others defer to the EEOC's ADA regulations and Interpretive Guidance under *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.,* 467 U.S. 837 (1984). *See, e.g., Summers*, 740 F.3d at 330 (invoking two-step process for *Chevron* deference); *cf. Shields*, 32 F.4th at 1223-25, 1225 n.5 (evaluating definition by applying EEOC regulations and guidance, noting defendant did not raise any question about *Chevron* deference in case). That courts based their reasoning on deference to the EEOC's interpretation is significant because the decisions are prior to *Loper Bright v. Raimando*, in which the Supreme Court overruled *Chevron* deference and directed courts to "exercise their independent judgment" in determining the meaning of ambiguous statutes. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024). The Academy argues this Court should, therefore, independently examine the statutory meaning of "substantially limits" under the ADAAA, rather than rely on the EEOC's interpretation of that term.

Coleman disagrees, pointing to language in *Loper Bright* that ["w]hen the best reading of a statute is that it delegates discretionary authority to an agency, the role of the reviewing court" is only to "ensur[e] the agency has engaged in reasoned decisionmaking within th[e APA's] boundaries." *Id.* at 395 (internal quotations omitted). Coleman points to the ADAAA's Findings and Purposes, where Congress directs the EEOC to interpret the meaning of "substantially limiting," ADA Amendments Act of 2008 § 2(a)(8), 122 Stat. at 3554, as well as 42 U.S.C. § 12205a, which states that the EEOC has the authority "to issue regulations implementing the definitions of disability . . . consistent with the ADA Amendments Act of 2008," to argue Congress has made such a delegation here. She points to the First Circuit's recent decision where that court described the ADAAA's provisions as "a quintessential example of Congress 'expressly delegat[ing] to an agency the authority to give meaning to a particular statutory term.'" *See Sutherland v. Peterson's Oil Serv., Inc.*, 126 F.4th 728, 739 (1st Cir. 2025) (citing *Loper Bright*)).

This Court disagrees with the First Circuit. There has not been clear delegation of discretionary authority to the EEOC. The examples set forth in *Loper Bright* are all more explicit than the ADAAA's delegation. For example, *Loper Bright* cites to 33 U. S. C. §1312(a), which "require[es] establishment of effluent limitations '[w]henever, in the judgment of the [Environmental Protection Agency (EPA)] Administrator . . . , discharges of pollutants from a point source or group of point sources . . . would interfere with the attainment or maintenance of that water quality . . . which shall assure' various outcomes, such as the 'protection of public health' and 'public water supplies'"). *Loper Bright Enters.,* 603 U.S. at 395 n.6 (quoting 33 U.S.C. §1312(a)); *see also id.* (quoting 42 U.S.C. §7412(n)(1)(A), which "direct[s] EPA to regulate power plants 'if the Administrator finds such regulation is appropriate and necessary'").

The quoted language explicitly delegates to the agency the power to exercise its judgment as to when regulation is needed. Congress' language in the ADAAA is not as clear.

The ADA initially provided in Title I, the employment subchapter, merely that "the Commission shall issue regulations in an accessible format to carry out this subchapter in accordance with subchapter II of chapter 5 of Title 5." 42 U.S.C § 12116. Titles II and III have similar general language. *See* 42 U.S.C.A. § 12134(a) ("Not later than 1 year after July 26, 1990, the Attorney General shall promulgate regulations in an accessible format that implement this part."); 42 U.S.C. § 12186 ("Not later than 1 year after July 26, 1990, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections1 12182(b)(2)(B) and (C) of this title and to carry out section 12184 of this title (other than subsection (b)(4))."). The Supreme Court raised without deciding the question of whether the ADA gave any agency the authority to issue regulations interpreting the definition sections of the Act. *See Sutton v. United Air Lines, Inc.*, 527 U.S. 471, 479 (1999), *overturned due to legislative action* (2009) ("No agency, however, has been given authority to issue regulations implementing the generally applicable provisions of the ADA."). Congress responded in the ADAAA by clarifying that "[t]he authority to issue regulations granted to the Equal Employment Opportunity Commission, the Attorney General, and the Secretary of Transportation under this chapter includes the authority to issue regulations implementing the definitions of disability in section 12102 of this title (including rules of construction) and the definitions in section 12103 of this title, consistent with the ADA Amendments Act of 2008." 42 U.S.C. § 12205a.

Section 12205a is a generic delegation of authority, however, which the Supreme Court in *Loper Bright* concluded does not require courts to defer automatically to agency interpretation of ambiguous statutory language. Coleman argues that § 12205a does not stand alone but must

be viewed in combination with the ADAAA's Findings and Purposes specific delegation of discretionary authority to the EEOC to issue regulations implementing the definition of "substantially limiting." The ADAAA states one of its purposes is "to express Congress' expectation that the Equal Employment Opportunity Commission will revise that portion of its current regulations that defines the term 'substantially limits' as 'significantly restricted' to be consistent with this Act, including the amendments made by this Act." ADA Amendments Act of 2008 § 2(a)(8), 122 Stat. at 3554. The Court cannot draw from either provision, however, the same level of authority the Court appears to have in mind in *Loper Bright*. Indeed, the ADAAA itself is the best evidence that Congress did not intend to delegate that authority to the EEOC. It merely directed the EEOC to act "consistent" with the statute.

Because whether a short-term impairment can be "substantially limiting" is a matter of statutory interpretation, this Court is not bound to defer to the EEOC's position that impairments lasting less than six months can be disabilities or its guidance that a lifting restriction lasting only a couple of months can meet that requirement. The Court instead agrees with those courts that have determined the ADAAA does not change the prior understanding of "substantially limiting" that excluded short-term impairments lasting only a few weeks or months. To hold otherwise means that "anyone who became ill and had to miss work for a period of time would suffer from a 'disability' under the ADA." *Clay v. Campbell Cnty. Sheriff's Office*, No. 6:12–cv–00062, 2013 WL 3245153, at *2–3 (W.D.Va. June 26, 2013); s*ee also Mastrio,* 2014 WL 840229, at *6 (quoting *Clay*).

Coleman suggests that cases like *Clay* and *Mastrio* do not give sufficient regard to another of the new Rules of Construction, namely that impairments that are episodic or in remission may be disabilities if, when the impairment is active, it substantially limits one or

more major life activities. 42 U.S.C. § 12102(4)(D). The Court disagrees. *Mastrio* for example recognized this new Rule but found it does not help plaintiffs who allege only a "singular occurrence" of kidney stones rather than a condition that was chronic. *See Mastrio* 2014 WL 840229, at *5. This suggests that if the plaintiff alleged the kidney stones were a chronic condition, the outcome would be different. Coleman's complaint alleges she had issues over a three-month period and that her doctor informed her that she had a type of stones that has a potential to recur, but it stops short of alleging the condition was chronic and likely to recur.

Finally, Coleman asserts that the Supreme Court in *Loper Bright* noted the continuing relevance of *Skidmore v. Swift & Co.*, 323 U.S. 134 (1944). Under so-called *Skidmore* deference, "rulings, interpretations and opinions of the Administrator under this Act, while not controlling upon the courts by reason of their authority, do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance." *Id.* at 140. *Loper Bright* explained that "courts may . . . seek aid from the interpretations of those responsible for implementing particular statutes." *Loper Bright*, 603 U.S. 369, 393 (2024) (citing Skidmore v. Swift & Co., 323 U.S. at 140). The weight given to the agency's interpretation "depend[s] upon the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade." *Id.* at 2259 (quoting *Skidmore*, 323 U.S. at 140). The Fifth Circuit has reasoned that [t]he last factor, persuasiveness, is the touchstone in determining how much to defer to an agency interpretation." *Midship Pipeline, Co., LLC v. FERC*, 45 F.4th 867, 875 (5th Cir. 2022).

As neither party is disputing the thoroughness of the process by which the ADAAA regulations and Interpretive Guidance were promulgated, the Court will not dwell on that factor in this case. The Court appreciates that the EEOC has developed expertise in interpreting the

ADA since the Act's original enactment in 1990. However, the ADAAA also reflects that Congress believed the EEOC regulations interpreting "substantially limiting" were not authoritative, and it essentially directed the agency to try again. The Court finds the new regulations and Interpretive Guidance lack validity of reasoning to the extent they suggest an impairment lasting "a couple of months" is enough. Nothing in the ADAAA suggests Congress intended to go that far. The regulations themselves acknowledge that "not every impairment will constitute a disability within the meaning of this section." 29 C.F.R. § 1630.2(j)(1)(ii). In fact, the new Rule of Construction on episodic impairments cuts against the EEOC's rule on short-term impairments because it suggests the impairment must keep recurring over an extended period of time. *See Clark v. Boyd Tunica, Inc.*, No. 314CV00204MPMJMV, 2016 WL 853529, at *5 (N.D. Miss. Mar. 1, 2016), aff'd, 665 F. App'x 367 (5th Cir. 2016) (describing episodic rule as covering impairments that are "reoccurring or on-going [in] nature").

The Court, therefore, finds the updated regulations have limited power to persuade. The Court is convinced as a matter of statutory interpretation that Coleman's kidney stones, which resolved in a brief period of time, were not a disability under the ADA as a matter of law. The Academy's motion to dismiss for failure to state a disability is, therefore, **GRANTED.**

2. Adverse Employment Action

Even assuming Coleman can establish that she has a disability, her claims are not plausible in a second regard. She has not met her burden to produce evidence that she suffered an adverse employment action regarding her failure to accommodate claim. Title I of the ADA prohibits employers from "discriminat[ing] against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of

employment." 42 U.S.C. § 12112(a). Title I defines "discriminate" to include "not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the employer." *Id.* § 12112(b)(5)(A). Thus, as the statutory text indicates, the discrimination, namely the failure to accommodate, must relate to the employee's terms, conditions and privileges of employment. The First Circuit explained this textual relationship:

> To survive a motion for summary judgment on a failure-to-accommodate claim, a plaintiff ordinarily must furnish significantly probative evidence that [s]he is a qualified individual with a disability within the meaning of the applicable statute; that [s]he works (or worked) for an employer whom the ADA covers; that the employer, despite knowing of the employee's physical or mental limitations, did not reasonably accommodate those limitations; and that the employer's failure to do so affected the terms, conditions, or privileges of the plaintiff's employment.

Higgins v. New Balance Athletic Shoe, Inc., 194 F.3d 252, 264 (1st Cir. 1999).

The Eighth Circuit found the plaintiff failed to make a prima facie case of disability discrimination in a failure-to-accommodate case when she did not experience a material change in the terms and conditions of her employment. *Kelleher v. Wal-Mart Stores, Inc.*, 817 F.3d 624, 632 (8th Cir. 2016); *see also Hopman v. Union Pac. R.R.*, 68 F.4th 394, 402 (8th Cir. 2023), *cert. denied*, 144 S. Ct. 1003 (2024) (not deciding issue but noting prior panels had concluded "an ADA failure-to-accommodate claim requires proof of a prima facie case of discrimination, which in turn requires proof that the employee suffered an adverse employment decision because of the disability") (internal citation omitted). In *Kelleher*, the plaintiff alleged her transfer to an overnight cashier position was sufficient evidence of an adverse employment action, but the court disagreed, noting that "[w]hile to be 'adverse' the action need not always involve termination or even a decrease in benefits or pay[,] not everything that makes an employee unhappy is an actionable adverse action." *Id.* (cleaned up). Similarly, the D.C. Circuit reasoned

that "the language of § 12112(a) makes clear, for discrimination (including denial of reasonable accommodation) to be actionable, it must occur in regard to some adverse personnel decision or other term or condition of employment." *Marshall v. Fed. Exp. Corp.*, 130 F.3d 1095, 1099 (D.C. Cir. 1997) (finding plaintiff failed to show she was denied opportunity to apply for a transfer because of any request that she be reasonably accommodated).

Most recently, the Eleventh Circuit held that a failure-to-accommodate plaintiff must show both that the employer discriminated on the basis of disability and that it did so in regard to the terms, conditions and privileges of employment. *Beasley v. O'Reilly Auto Parts*, 69 F.4th 744, 754–55 (11th Cir. 2023). The court explained that:

> [t]he first element — discrimination — occurs when the employer fails to provide'reasonable accommodations' for the disability — unless doing so would impose undue hardship on the employer. But discrimination in the form of a failure to reasonably accommodate is actionable under the ADA only if that failure negatively impacts the employee's hiring, advancement, discharge, compensation, training, and other terms, conditions, and privileges of his employment.

Id. at 754 (cleaned up). The plaintiff alleged he had been denied an interpreter and that affected the terms and conditions of his employment. The court agreed his working conditions were adversely affected when he was denied an interpreter during a pre-shift meeting where safety was discussed, but not for a forklift training that the plaintiff had completed without an interpreter, nor during a company picnic where his wife had interpreted for him. *Id.* at 755.

Coleman argues that these cases are inconsistent with the Supreme Court's recent ruling in *Muldrow v. City of St. Louis*, 601 U.S. 346 (2024). In *Muldrow*, a Title VII disparate-treatment claim, the Supreme Court held that plaintiffs make a prima facie case of an adverse employment action if they show their employer's actions caused "some harm" to their terms and conditions of employment. *Id.* at 350. The Supreme Court rejected lower court rulings that had

heightened the plaintiff's burden to show harm that was significant, serious, substantial "or any similar adjective suggesting that the disadvantage to the employee must exceed a heightened bar." *Muldrow* 601 U.S. at 346, 355. Both parties agree that *Muldrow*'s holding applies to the ADA based on its similar language in 42 U.S.C. § 12112 that the disability discrimination must affect the employee's "terms, conditions, and privileges of employment," and the Court will, therefore, apply it equally to the context of this case. Coleman reads *Muldrow* to mean that an employer's refusal to reasonably accommodate an employee with a disability meets this minimal "some harm" requirement.

What Coleman's argument misses, however, is that the Supreme Court still required plaintiffs to show a "'disadvantageous' change in an employment term or condition." *Muldrow*, 360 U.S. at 354 (citing *Oncale v. Sundowner Offshore Servs., Inc.*, 523 U. S. 75, 80 (1998)). To say that the plaintiff must show the employer's actions resulted in some specific disadvantage does not heighten the standard of proof, which was the concern the Supreme Court addressed in *Muldrow*. It simply requires that the plaintiff show more than the mere fact an action was taken—the plaintiff must show that action changed the "what, where, when" of the plaintiff's employment. *Muldrow*, 601 U.S. at 354. Even though it was pre-*Muldrow*, the Eleventh Circuit's parsing of the different accommodation requests in *Beasley* demonstrates how a court can determine when "some harm" to the plaintiff's terms and conditions of employment has occurred and when it has not.

Faced with the requirement to show disadvantage, Coleman turns to the LOI issued by Principal Sparks.[9] She argues that the LOI was issued only because Sparks unlawfully denied

[9] In another case, the disadvantage might have been loss of wages or leave days, but nothing like that happened in this case. The plaintiff was only required to work according to the same policy as other employees, and when she was too ill to continue that day, she was able to leave without

her request for waiver of the end-of-term leave policy. She argues that even if the LOI did not immediately change her employment status, it could be used to her disadvantage in the future.

Several courts have held that letters of reprimand that did not result in further disciplinary action like "a change in grade, salary, or other benefits" fail to show some harm under *Muldrow*. *See, e.g., Kelso v. Vilsack,* No. CV 19-3864 (EGS/ZMF), 2024 WL 5159101, at *7 (D.D.C. Dec. 18, 2024) (finding letters of instruction and reprimand were insufficient because they did not change any of the terms, conditions or privileges of plaintiff's employment); *McBride v. C&C Apartment Mgmt. LLC*, No. 21 CIV. 02989 (DEH), 2024 WL 4403701, at *9 (S.D.N.Y. Oct. 1, 2024), *appeal dismissed* (Dec. 26, 2024) (finding that being issued disciplinary warnings did not in themselves constitute some harm); *Farmer v. FilmTec Corp.*, No. 22-CV-2974 (KMM/DLM), 2024 WL 4239552, at *12 (D. Minn. Sept. 19, 2024) (finding that "documented coaching" that was later removed from plaintiff's file did not constitute some harm). The D.C. Circuit recently rejected a plaintiff's argument that the letters of instruction and reprimand placed put her job at risk. *Kelso*, 2024 WL 5159101, at *7. The court said nothing in the letters changed the "what, where, or when" of her employment. *See id.*

There is no dispute here whether the LOI had any negative effect on the "what, where, or when" of Coleman's employment. It did not. She is still employed in the same position, the LOI has not affected whether her contract was renewed for the next school year, and she has seen no changes in her pay or job duties. At best she can argue it has caused her to suffer distress at being reprimanded and to worry about whether it might affect a performance review that is two

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either a dock in pay or using up available paid leave days because she had already exhausted them.

years in the future, but neither of those constitute an adverse employment action. *See Kelso*, 2024 WL 5159101, at *7.

CONCLUSION

For the foregoing reasons, the Court **GRANTS** defendant's motion to dismiss.

DONE and ORDERED January 20, 2024.

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Robert Z. Rivkin

UNITED STATES DISTRICT COURT JUDGE

UNITED STATES COURT OF APPEALS FOR THE FIFTEENTH CIRCUIT

Lisa Coleman,

Appellant,

v.

The Paisley Academy

Appellee.

No. 24-2101

October 15, 2025

Before: Day, C.J., Kotero, and Nelson, Circuit Judges.

OPINION

Day, C.J.

This appeal arises from the lower court's grant of Appellee The Paisley Academy's motion to dismiss Appellant Lisa Coleman's complaint under Federal Rules of Civil Procedure 12(b)(6). The lower court concluded that Coleman failed as a matter of law to allege a plausible claim that The Academy discriminated against her based on disability under the Americans with Disabilities Act ("ADA"). The lower court set out the factual background with some detail, and we do not repeat that here except as relevant to our analysis.

The two issues on appeal are whether a temporary impairment can "substantially limit" a major-life activity under the definition of disability in the ADA, and whether an ADA plaintiff must allege more than denial of a reasonable accommodation to show some harm and if so, whether a Letter of Instruction (LOI) can be such harm. After having reviewed the record presented on appeal and considering the parties' arguments, this Court concludes that the lower court erred in dismissing Coleman's claims in both regards.

Issue 1: Did the Appellant plausibly allege a disability under the ADA?

An ADA plaintiff alleging discrimination has the initial burden to establish that she is an individual with disability. The statute defines disability to mean "(A) a physical or mental impairment that substantially limits one or more major life activities of [an] individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment." 42 U.S.C. § 12102(1). Appellee Coleman alleges that she has an "actual" disability under the first prong of the definition and that she has a record of such a disability under the second prong. As the district court correctly observed, whether the plaintiff has identified an "impairment' and whether it limits a "major life activity" are questions of law for the judge but the question of whether an impairment is "substantially limiting" is a question of fact. The district court nonetheless concluded this was an appropriate case for summary dismissal because the impairment Coleman alleges, kidney stones, is too short-lived as a matter of law. This is despite the fact Coleman suffered recurring episodes of the kidney stones, underwent surgery to remove larger stones, and apparently suffered an infection that required antibiotics. Because all of that occurred in about three months, the district court held it could not as a matter of law meet the threshold for "substantially" limiting. This Court disagrees.

The Court starts with the proper deference due the Equal Employment Opportunity Commission's (EEOC's) regulations and Interpretive Guidance on short-term impairments. As the district court acknowledged, the EEOC rejects any per se rule that impairments lasting less than six months cannot meet the threshold. 29 C.F.R. § 1630.2(j)(1)(ix) (2025). Instead, the EEOC directs courts to focus on the effects of the impairment. 29 C.F.R. app. § 1630.2(j)(1)(ix) (2025). Duration is one consideration, but only one consideration. *Id.* The EEOC's Interpretive Guidance provides as an example a person whose back injury results in a lifting limitation for "several months." *Id.* The district court felt entitled to disregard that guidance and the regulations

as a whole because of the Supreme Court's recent ruling in *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024). The district court also refused to give persuasive weight to the regulations under *Skidmore*, 323 U.S. 134. Both actions were in error.

First, *Loper Bright* carved out an exception from its ruling that courts should exercise independent judgment in interpreting ambiguous statutes. *Loper Bright*, 603 U.S. at 395. The Court recognized that Congress may delegate authority to interpret the statute in question to the agency. *Id.* As a recent N.Y.U Law Review identified, the Court appeared to distinguish between "general authority/housekeeping delegations [which] are, by definition, untethered from specific, substantive statutory requirements, programs, goals, or plans beyond the mere four corners of the statute," and specific or hybrid delegations, which "focus on specific subject matter and often have additional criteria to further define the terms and phrases of what is to be regulated, or, at the very least, typically are expressed in close proximity to substantive statutory provisions that serve to guide and cabin their exercise." Kristin E. Hickman and Amy J. Wildermuth, Harmonizing Delegation and Deference After Loper Bright , N.YU. L. Rev. (forthcoming 2025) (manuscript at 35, 40), https://ssrn.com/abstract=5175305 or http://dx.doi.org/10.2139/ssrn.5175305.

The EEOC's regulations and guidance on the "substantially limits" threshold fit most clearly into the specific or hybrid category. Congress passed a law specific to the ADA's definition, set out guiding policies and purposes of that definition along with specific additional criteria, and then directed the EEOC to develop regulations to effectuate the policies reflected in the Act. In the same Act, Congress made it clear that the Supreme Court had incorrectly suggested that no agency had been delegated authority to interpret the definition sections of the Act. *See* 42 U.S.C. § 12205a (explaining regulatory authority); *cf. Sutton v. United Air Lines,*

Inc., 527 U.S. 471, 479 (1999), *overturned due to legislative action* (2009) (pre-ADAAA, stating no agency had been given authority to issue regulations implementing the ADA's definition section). Unlike other statutes where it may not be clear what authority Congress wanted to delegate to an agency, Congress was explicit here. It intended the EEOC fill in the gaps to broaden the definition of "disability" under the ADA. *See generally* ADA Amendments Act of 2008 § 2, 122 Stat. at 3553-54.

This Court concludes the Supreme Court would recognize that the ADAAA regulations at issue fall within the *Loper Bright* exception. The Supreme Court explained that when Congress has delegated authority to the agency, "[t]he court fulfills [its] role by recognizing constitutional delegations, fixing the boundaries of the delegated authority, and ensuring the agency has engaged in reasoned decisionmaking within those boundaries." *Loper Bright*, 603 U.S. at 395 (internal quotations omitted). Neither party disputes that Congress acted constitutionally by delegating to the EEOC the authority to promulgate regulations and guidances regarding the ADA and ADAAA. The Findings and Purposes section explicitly fixes the boundaries of the delegated authority as "revis[ing] that portion of [the EEOC's] current regulations that defines the term "substantially limits" . . . to be consistent with this Act, including the amendments made by this Act."[10] ADA Amendments Act of 2008 § 2(a)(8), 122 Stat. at 3554. As the district court noted, the parties are not disputing the process through which the EEOC promulgated the regulations in 29 C.F.R. pt. 1630 and accompanying Interpretive Guidance, 29 C.F.R. app. pt. 1630.

[10] The ADAAA's Rules of Construction also direct that "[t]he term "substantially limits" shall be interpreted consistently with the findings and purposes of the ADA Amendments Act of 2008." 42 U.S.C. § 12102(4)(B).

The court's role is, thus, to determine whether the scope of the regulations is reasonable within the boundaries of the ADAAA. Although the circuit court cases dismissed by the district court were decided prior to *Loper Bright*, they did not simply defer to the EEOC in finding short-term impairments may be disabilities. For example, the Fourth Circuit evaluated the reasonableness of the EEOC's position, finding it advanced Congress's stated intent to expand the scope of the statute. *Summers v. Altarum Inst., Corp.*, 740 F.3d 325, 332 (4th Cir. 2014). Similarly, the Second Circuit emphasized the ADAAA's "relaxed temporal requirements" to find a court could not dismiss a claim "solely because" the alleged impairment was temporary. *See Hamilton v. Westchester Cnty.*, 3 F.4th 86, 93 (2d Cir. 2021).

The Act is clear that Congress intended the definition to be construed broadly "to the maximum extent permitted by the terms of" the Act, "consistent [] with the [ADAAA's] findings and purposes." 42 U.S.C. §§ 12102(4)(A), (B). The Act's Findings and Purposes state that the primary consideration should be whether the defendant complied with its obligations and the question of disability should not require extensive analysis. ADA Amendments Act of 2008 § 2(b)(5), 122 Stat. at 3554. The district court failed to heed those directives when it construed the episodic Rule of Construction narrowly to require the impairment to have a longer duration. *See* 42 U.S.C. § 12102(4)(D) (episodic impairments should be evaluated when they are active). Congress could have but did not include a temporal requirement for the "actual" and "regarded as" prongs of the definition. By contrast, Congress did impose a six-month requirement on claims under the "regarded as" prong. 42 U.S.C. § 12102(3)(B) (excluding impairments that are "minor and transitory" and defining "transitory" to mean six months or less in duration). The absence of similar language in the first two prongs gives rise to a negative inference that

Congress intended any similar durational limitation. *See Summers*, 740 F.3d at 332 (citing *Hamdan v. Rumsfeld*, 548 U.S. 557, 578 (2006)).

Finally, the EEOC's guidance on short-term impairments quotes the ADAAA's bipartisan legislative history for the proposition that "[i]mpairments that last only for a short period of time are typically not covered, although they may be covered if sufficiently severe." Statement of Representatives Hoyer and Sensenbrenner, 154 Cong. Rec. H8294-96 at 5 (daily ed. Sept. 17, 2008). This same legislative history characterizes duration as "one" factor to be considered. *Id.* It is, therefore, reasonable for the EEOC to interpret the ADAAA to cover a short-term impairment if that impairment substantially limits an individual while it is active, regardless of how long the impairment lasted. *Cf. Chevron U.S.A. Inc. v. Echazabal,* 536 U.S. 73, 84 (2002) (finding EEOC's regulation reasonable where it "[made] sense of" a gap left in the statute Congress intended the agency to fill).

Regardless, the district court at minimum should have given the regulations persuasive weight under *Skidmore v. Swift & Co*., 323 U.S. 134 (1944). As noted above, the regulations are consistent with both the ADAAA's Findings and Purposes as well as its Rules of Construction. Congress reiterated its intent to create a "comprehensive national mandate. ADA Amendments Act of 2008 § 2(b)(1), 122 Stat. at 3553-54. It broadly rejected the Supreme Court's reasoning in *Toyota Motor Mfg., Kentucky, Inc. v. Williams*, as setting the bar too high for what is "substantially limiting." *See id.* § 2(a)(7), 122 Stat. at 3554. As explained above, the episodic impairments Rule of Construction directs courts to focus on the impairment when active, not on periods when it is not. 42 U.S.C. § 12102(4)(d). The wholesale exclusion of short-term impairments in cases such as those cited by the district court is inconsistent with Congress's

clear intent, whereas the EEOC regulations recognize that we should focus on the impairment's effects, not solely its duration.

Therefore, giving persuasive weight to the EEOC's guidance to consider the effects of the impairment with duration being only one factor to consider, the district court should have concluded that Coleman has made a plausible claim that her kidney stones were a disability because they were sufficiently severe while active. The kidney stones occurred over a three-month period, and they resulted in a surgical procedure and a subsequent infection that limited Coleman's ability to work. This was severe enough to substantially limit her genitourinary and nephrological systems. The district court failed to heed Congress's expressed intent to construe the definition of disability broadly to the maximum extent permitted by the Act.

But even if no deference of any kind is owed the EEOC's regulations and guidance, we still find that the district court's refusal to recognize Coleman's impairment as too short-lived is contrary to the ADAAA. As already discussed, the ADAAA's language and legislative history emphasize that the term "substantially limits" should be construed broadly and that duration is only one factor. Although this is an issue of first impression in this circuit, as noted above, other circuits have rejected their prior requirement that an impairment must be permanent and long-term as inconsistent with the ADAAA's express purpose to expand the definition of disability. All of this persuades us that the best interpretation of the statutory language imposes no durational requirement on either an "actual" or "record of" claim.

The decision of the district court to dismiss Colemans's complaint based on Coleman's failure plausibly to plead she is an individual with a disability is REVERSED.

ISSUE 2: Must ADA Plaintiffs show "some harm" beyond an accommodation denial itself and if so, is a Letter of Instruction sufficient to show that harm?

The district court held as an alternative basis for dismissing Coleman's complaint that she was required to create an issue of fact on whether she had experienced an adverse employment action as a result of the Academy denying her accommodation request. The district court rejected Coleman's argument that all she needed to show was that she requested reasonable accommodation and the Academy denied it. The district court then rejected Coleman's evidence that the Letter of Instruction (LOI) she received from Principal Sparks was an adverse employment action. We disagree with the district court on both conclusions.

First, denial of a requested accommodation in and of itself can be an adverse action. *Cf. Cole v. Grp. Health Plan, Inc.*, 105 F.4th 1110, 1114 (8th Cir. 2024) (religious accommodation claim). Second, a LOI that contains the threat that it may affect the plaintiff's terms and conditions of employment in the future is also sufficient to create a jury question on whether the plaintiff suffered an adverse employment action. *See Castiglione v. Bunch*, No. CV 23-2274 (LLA), 2025 WL 843280, at *8 (D.D.C. Mar. 18, 2025).

This Court finds the recent Supreme Court decision in *Muldrow v. St. Louis* instructive as to whether Coleman created a jury question in this case, but not for the reasons cited by the district court. The district court focused on *Muldrow's* language stating plaintiffs must show some "'disadvantageous' change in an employment term or condition." *Muldrow*, 601 U.S. 346, 354 (citing *Oncale ,* 523 U. S. at 80). What the Supreme Court was saying in *Muldrow* is better understood by this passage: "Muldrow need show only some injury respecting her employment terms or conditions. The transfer must have left her worse off but need not have left her significantly so." *Id.* at 359. The Eighth Circuit in an analogous religious accommodation case recently recognized that at the pleading stage, factual allegations that the plaintiff was denied a

requested accommodation are enough to meet *Muldrow's* "some harm" standard. *Cole*, 105 F.4th at 1114 ("Dismissal of the complaint on the basis of no adverse action is improper at this stage of the proceedings.").

An accommodation is reasonable because it allows the employee to perform the essential functions of the job and receive the same privileges and benefits as other employees without disabilities. *US Airways, Inc. v. Barnett*, 535 U.S. 391, 397 (2002) ("The Act requires preferences in the form of "reasonable accommodations" that are needed for those with disabilities to obtain the same workplace opportunities that those without disabilities automatically enjoy."). The Tenth Circuit en banc observed that the "reasonable-accommodation mandate . . . would be significantly frustrated by including an adverse employment action as a necessary element of a failure-to-accommodate claim." *Exby-Stolley v. Bd. of Cnty. Comm'rs*, 979 F.3d 784, 799 (10th Cir. 2020) (en banc). Employers would be able to deny accommodation requests as long as they do not take some additional adverse employment action. *Id.*

ADA plaintiffs need only show there is a potential question of fact regarding whether they were denied a reasonable accommodation that on its face does not appear to pose an undue hardship on the employer. *See Plagianes v. Fulton Cnty. Sch. Dist.,* No. 1:24-CV-3775-JPB-JSA, 2025 WL 1884750, at *9 (N.D. Ga. Apr. 25, 2025), *report and recommendation adopted*, No. 1:24-CV-03775-JPB-JSA, 2025 WL 1884749 (N.D. Ga. June 5, 2025) (concluding at pleading stage, court could not dismiss plaintiff's claim even if there was question of fact regarding whether accommodation was reasonable). Cases have long recognized that denying a brief leave of absence can be an adverse employment action. *See Criado v. IBM Corp.*, 145 F.3d 437, 443 (1st Cir. 1998) (collecting authorities recognizing that leave of absence or leave

extensions are reasonable in some circumstances). The district court erred by requiring Coleman to show anything beyond the Academy's refusal to grant her the leave she requested.

But even if that was not in itself enough, Coleman was made worse off by another of the Academy's actions: issuing her the LOI for missing a day of work due to the after-effects of the kidney stone removal procedure. Coleman was issued a formal reprimand that has the potential to affect her status and pay. The reprimand negatively affects her work environment, which is enough to meet *Muldrow's* minimal standard. *See Castiglione*, 2025 WL 843280, at *8 (finding changes to plaintiff's work, comments from supervisor, and letter of reprimand showed plaintiff's work environment was worse off). It does not matter that if Coleman has no further infractions, the Academy will remove the LOI from her file. To the contrary, that raises the stakes. For discriminatory reasons, she received a LOI that could be considered in her third-year review, which could lead to denying her additional pay or benefits, or placing her in a disadvantageous position regarding job placement and layoffs. *See Holmes v. Washington Metro. Area Transit Auth.*, 723 F. Supp. 3d 1, 17 (D.D.C. 2024) ("A formal reprimand can be an adverse action, however, if it serves as 'a building block' that justifies an adverse action down the road."). We disagree with those courts that have held there has to be a disadvantageous outcome such as a discharge before a formal reprimand can be harm. *But see Wilson v. Noem,* No. 20-CV-100 (GMH), 2025 WL 1000666, at *24 (D.D.C. Apr. 3, 2025) (finding letter of reprimand to be adverse employment action where it was subsequently cited as basis for deciding what penalty to impose for later misconduct charge). That is not what *Muldrow* is saying. In fact, that standard effectively reanimates the "significant" harm standard the Supreme Court rejected.

It is enough that for the two years after the LOI, Coleman's work environment will be worse off as she works under the threat of further reprimand. *See Staton v. DeJoy*, No. 1:23-CV-

03223-SBP, 2025 WL 42821, at *8 (D. Colo. Jan. 7, 2025) (considering being "threatened with discipline, 'red-flagged,' and generally subjected to heightened scrutiny at work" as some harm under *Muldrow*); *see also Marshall v. Fed. Exp. Corp.*, 130 F.3d 1095, 1099 (D.C. Cir. 1997) (recognizing that "working conditions [that] inflict pain or hardship on a disabled employee, [where] the employer fails to modify the conditions upon the employee's demand, and the employee simply bears the conditions, . . . could amount to a denial of reasonable accommodation, despite there being no job loss, pay loss, transfer, demotion, denial of advancement, or other adverse personnel action"). The district court misapplied *Muldrow* and failed to recognize that Coleman has created plausibly alleged issues of fact for the jury to resolve.

CONCLUSION

The Order of the Federal District Court for the District of Minnetonka dismissing Appellant's Complaint is hereby REVERSED as to both issues on appeal and REMANDED for further proceedings.

IN THE SUPREME COURT OF THE UNITED STATES

The Paisley Academy,

Petitioner,

v.

Lisa Coleman,

Respondent.

Docket No. 25-777-9311

The Petitioner for Certiorari filed with this Court on October 31, 2025, is hereby granted, limited to the following two issues:

1. Whether the EEOC's regulations and Interpretive Guidance in 42 U.S.C. § 1630.2 and 42 U.S.C. app. § 1630.2 respectively, interpreting the meaning of "substantially limits" under the ADA Amendments Act, are entitled to deference after *Loper Bright Enterprises v. Raimando,* and whether Respondent plausibly alleged she was an individual with a disability.

2. Whether an ADA plaintiff can meet *Muldrow v. City of St. Louis's* "some harm" standard by alleging her employer denied her request for a reasonable accommodation or, if some additional adverse employment action is required, whether a letter of reprimand meets the standard.